



BILLING CODE: 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2013-0027]

Addendum to the Memorandum of Understanding with the Department of Energy

(August 28, 1992); Oak Ridge, Tennessee Properties

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This is a notice of an addendum to the interagency Memorandum of Understanding (MOU) between the U.S. Department of Labor (DOL), Occupational Safety and Health Administration (OSHA) and the U.S. Department of Energy (DOE). The MOU establishes specific interagency procedures for the transfer of occupational safety and health coverage for privatized facilities, properties, and operations from DOE to OSHA and state agencies acting under state plans approved by OSHA.

DATES: The expansion of the scope of recognition becomes effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693-1999; email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, OSHA Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, U.S. Department of Labor, telephone: (202) 693-2110 or email: *robinson.kevin@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

DOE and OSHA entered into a MOU on August 10, 1992, delineating regulatory authority over the occupational safety and health of contractor employees at DOE government-owned or leased, contractor-operated (GOCO) facilities. In general, the MOU recognizes that DOE exercises statutory authority under section 161(f) of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2201(f)), relating to the occupational safety and health of private-sector employees at these facilities.

Section 4(b)(1) of the Occupational Safety Health Act of 1970 (OSH Act) (29 U.S.C. 653(b)(1)), exempts from OSHA authority working conditions with respect to which other federal agencies have exercised statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health. The 1992 MOU acknowledges DOE's extensive program for the regulation of contractor health and safety, which requires contractor compliance with all OSHA standards as well as additional requirements prescribed by DOE, and concludes with an agreement by the agencies that the provisions of the OSH Act will not apply to GOCO sites for which DOE has exercised authority to regulate occupational safety and health under the Atomic Energy Act. The 1992 MOU has expired.

In light of DOE's policy emphasis on privatization activities, OSHA and DOE entered into a second MOU on July 25, 2000, that establishes interagency procedures to address regulatory authority for occupational safety and health at specified privatized facilities and operations on sites formerly controlled by DOE. The July 25, 2000, MOU covers facilities and operations on lands no longer controlled by DOE, which are not conducting activities for or on behalf of DOE and where there is no likelihood that any employee exposure to radiation from DOE sources would be 25 millirems per year (mrem/yr) or more.

II. Notice of Transfer

In an email dated February 2, 2018, DOE requested that OSHA or, as appropriate, the Tennessee Occupational Safety and Health Administration (TOSHA) accept occupational safety and health regulatory authority over employees at the East Tennessee Technology Park in Oak Ridge, Tennessee, six parcels of land pursuant to the MOU on Safety and Health Enforcement at Privatized Facilities and Operations dated July 25, 2000. Other facilities and properties at the East Tennessee Technology Park were transferred to TOSHA jurisdiction under this MOU by *Federal Register* notices 74 FR 120 (January 2, 2009), 74 FR 39977 (August 10, 2009), 76 FR 80408 (December 23, 2011) and 79 FR 29456 (May 22, 2014).

The six parcels of land, which are located at the East Tennessee Technology Park in Oak Ridge, Tennessee, and were transferred by deed to the Community Reuse Organization of East Tennessee (CROET) are described as follows:

- *Land Parcel ED-11* Consists of five tracts of land separated by roadways: ED-11A (11.67 acres), ED-11B (2.25 acres), ED-11C (0.49 acres), ED-11D (0.31 acres), and ED-11E (0.15 acres). No buildings are included in this transfer;
- *Land Parcel ED-12* Consists of five tracts of land separated by roadways: ED-12A (5.88 acres), ED-12B (2.57 acres), ED-12C (1.75 acres), ED-12D (2.99 acres), and ED-12E (0.16 acres). No buildings are included in this transfer;
- *Land Parcel ED-3* Consists of two tracts of land separated by roadways. The southern tract (111 acres), and the northern tract (2.5 acres). No buildings are included in this transfer;
- *Land Parcel ED-3 West* Consists of one tract of approximately 72 acres. No buildings are included in this transfer;
- *Land Parcel K-31* Consists of one tract of approximately 61 acres. No buildings are included in this transfer. Any existing buildings will be destroyed before the transfer takes place; and
- *Land Parcel K-33* Consists of one tract of approximately 136.4 acres. No buildings are included in this transfer.

OSHA's Regional Office in Atlanta, Georgia, working with the OSHA Nashville Area Office and TOSHA, determined that TOSHA is willing to accept authority over the occupational safety and health of public-sector and private-sector employees at the six parcels of land at the East Tennessee Technology Park in Oak Ridge, Tennessee, that were transferred by deed to CROET. In a letter from OSHA to DOE dated May 21, 2018, OSHA stated that TOSHA is satisfied with DOE assurances that (1) there is no likelihood that any employee at facilities in the vicinity of these land parcels will be

exposed to radiation levels that will be 25 millirems per year (mrem/yr) or more, and; (2) transfer of authority to TOSHA is free from regulatory gaps and does not diminish the safety and health protection of the employees.

Accordingly, TOSHA accepts and maintains health and safety regulatory authority over employees in the vicinity of Land Parcels ED-11, ED-12, ED-3, ED-3 West, K-31 and K-33.

III. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. This *Federal Register* notice provides public notice and serves as an addendum to the 1992 OSHA / DOE MOU. Accordingly, the Agency is issuing this notice pursuant to Section 8(g)(2) of the Occupational Health and Safety Act of 1970 (29 U.S.C. 657(g)(2)), Secretary of Labor's Order No. 1-2012 (77 FR 3912, Jan. 25, 2012).

Signed at Washington, DC, on September 5, 2018.

Loren Sweatt,
Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2018-19689 Filed: 9/10/2018 8:45 am; Publication Date: 9/11/2018]